

Baltimore County Ethics Commission

Advisory Opinion 22-04

The Baltimore County Ethics Commission (the “**Commission**”) issues this Advisory Opinion in response to an inquiry made by a Baltimore County Supervisor on behalf of their subordinate Employee (the “**Employee**”) as to whether Employee would be permitted, under the Baltimore County Ethics Code (the “**Ethics Code**”), to be employed simultaneously by Baltimore County and a Vendor (“**Vendor**”) which has a contract with Baltimore County involving the County agency to which the Employee is assigned.

Baltimore County has a contract with a Vendor for a standard set of questions for emergency calls. All employees are certified to use these Vendor’s protocols for their job. The Vendor also provides a service where they review other jurisdiction’s 911 calls for compliance with the Vendor’s standards. The Vendor approached the Employee as to whether they would be interested in secondary employment with the Vendor. The scope of the proposed employment with the Vendor has been described to the Commission as the review of 911 calls for other jurisdictions; this is something that the Employee currently does as a supervisor with Baltimore County. However, the Commission finds that the Employee’s employment with the Company while continuing their employment with Baltimore County would violate the Ethics Code.

Dual Employment

In considering whether the Ethics Code prohibits the dual employment the Commission carefully reviewed Subtitle 3 of the Ethics Code (“Prohibited Conduct and Interests”).

Two provisions under Subtitle 3 of the Ethics Code address concurrent (or secondary) employment: §7-1-302 (“Restrictions on Employment, Financial Interests, and Affiliations”) and §7-1-303 (“Employment of Public Official by Party to Contract”). Section 7-1-302 applies where a Baltimore County employee has secondary employment with an entity which has a contract with the Baltimore County employee’s agency or department. By contrast, §7-1-303 applies only where the contract “binds or purports to bind the [C]ounty.” *Id.* The Commission noted that the County (as opposed to the Emergency Communications Department) is a party to the contract with the Vendor, and contract itself binds or purports to bind the County. The Commission concluded that §7-1-303 is applicable here because the County is a party to, and is bound by, the contract with the Vendor.

Having determined that §7-1-303 is the applicable provision, the Commission next considered whether this provision prohibits dual employment in the current situation. The Commission concluded in the instant situation that it is prohibited. Section 7-1-303 prohibits dual employment only where the employee’s duties pursuant to his or her County employment “include matters substantially relating to or affecting the subject matter of the contract” between the County and the outside employer. Here, the duties and responsibilities of the Employee are the same or substantially related to their duties as an employee with the Vendor. Accordingly, the dual employment is prohibited by §7-1-303.

Accordingly, in light of the above-analysis, the Commission believes that the Ethics Code prohibits the dual employment with Baltimore County and the Vendor.

Cynthia Leppert (electronic signature)

Cynthia Leppert, Chair

Otis Collins (electronic signature)

Otis Collins, Commissioner

Laura Ray (electronic signature)

Laura Ray, Commissioner

Laurence A. Ruth (electronic signature)

Laurence A. Ruth, Commissioner